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By \_\_\_\_\_

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: William J. Curatolo, et al. :

APPLICATION NO.: 09/803,628 : Examiner: R. DeWitty

FILING DATE: March 9, 2001 : Group Art Unit: 1616

TITLE: Controlled-Release Dosage Forms of  
Azithromycin : *H. S. J. G. S.*

Assistant Commissioner for Patents  
Washington, D.C. 20231  
*2/22/02*

Sir:

**Response to Office Action Dated October 2, 2001**

This paper is submitted in response to the Office Action dated October 2, 2001 that was issued by the United States Patent and Trademark Office in connection with the above-identified application. A response to the October 2, 2001 Office Action was due November 2, 2001. A Petition for a Three-Month Extension of Time is enclosed herewith. Accordingly, this Response is being timely filed.

In response to the Restriction Requirement set forth on Page 2 of the Office Action dated October 2, 2001, Applicants elect, without traverse, to prosecute the Group I claims, (1-21, 57-65, 68-71, 149-174, 175-190 and 208-212) in the instant application. Applicants maintain their right to file a separate application(s) to the non-elected claims. Applicants further maintain their right to Rejoinder under M.P.E.P. § 821.04.

Further, in response to the species election requirement set forth on page 5 of the aforementioned Office Action, Applicants elect the matrix material (claims 173-175 and 208-212). However, upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species that are written in dependent

form or otherwise include all limitations of an allowed generic claim as provided by  
37 C.F.R. § 1.141.



No other fee is deemed necessary in connection with the filing of this Response. If, however, the Commissioner determines that any fee is due, authorization is hereby given to charge any such fee to Deposit Account No. 16-1445. The Commissioner is hereby authorized to charge any credit and overpayment to Deposit Account No. 16-1445.

Respectfully Submitted By:

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